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ABSTRACT

This guide, the third in a series of three, describes the basic framework for formulating a workable contract between the superintendent and the school board. It is designed to address contractual concerns such as administrator liability and due process, which have impacted on both the educational administrator profession and the school board decision-making process in recent years. Fringe benefits are discussed in detail and a sample contract is offered at the end. (Author/LD)

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The Superintendent's Contract

EA 012 194

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The Superintendent's Contract

"A compilation of provisions that may be considered as a superintendent's employment contract is drawn. A resource document for school boards and superintendents."

Prepared for
The AASA Committee for the Advancement of
School Administration (CASA)

Reviewed and Approved by
The Joint AASA-NSBA Committee

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Superintendent Career Development Series

Books in this series include:

**Guidelines for the Preparation of School
Administrators**

Selecting a Superintendent

The Superintendent's Contract

**Compensating the Superintendent
(Summary Report)**

The Administrative Leadership Team

Evaluating the Superintendent

A full report on **Compensating the Superintendent** is also available through the American Association of School Administrators.

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Table of Contents

Foreword	1
Introduction	3
Chapter 1	
The School Superintendent's	
Employment Contract	7
Employment Contract Expressed or Implied	8
State-Local Law, Custom Affect Contract	9
Chapter 2	
Elements of a Superintendent's	
Employment Contract	11
Preamble	11
(1)* Term	11
(2) Superintendent's Professional Certification	
and Responsibilities	13
(4) Compensation	13
(5) Vacation & Other Benefits	14
(6) Expenses	16
(7) Provision for Automobile or Automobile	
Allowance	17
(8) Professional Liability	17
(9) Medical Examination & Personal Protection	18
(10) Goals and Objectives	18
(11) Evaluation	19
(12), (1) Renewal of Employment Contract	20
(13D) Employment Contract Termination	21
(14) Savings Clause	22
Form of the Employment Contract	22
Approval of the Employment Contract	23
Calendar of Mandatory Actions in Respect	
to the Contract	24
Supplemental Resources	24
Appendix A	
Sample Contract	27

Appendix B	
Sample Contract Amendment Certification	39
Appendix C	
Fringe Benefits	41
Executive Perquisites	41
Death Benefit Plans	41
Income Replacement / Maintenance	42
Medical Care	42
Pension Plans	42
Expense Arrangements	42
Appendix D	
Calendar of Mandatory Action	43
Acknowledgments	45

Foreword

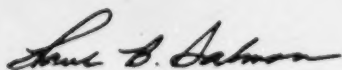
A well developed employment contract serves as a basis for both the superintendent and the school board to reach certain goals. The contract is also basic to building a clear and rational relationship between the board and superintendent.

Noting the importance of a well drawn contract, the AASA Committee for the Advancement of School Administration (CASA), contracted for research and writing of this publication.

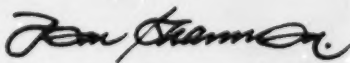
The understanding of school board members is essential to the success of the contractual relationship. Therefore, the Joint AASA-NSBA Committee reviewed the manuscript and made recommendations. The review process involved many meetings held over a period of eighteen months.

The result is a publication including the views of both administration and board.

While the content of this publication is, by nature, somewhat technical, it does provide the basic framework for formulating a workable contract within the laws and practices of individual states and communities.



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Introduction

The superintendent's employment contract provisions contained herein supersede a similar document prepared by AASA in the early 1970s. This publication is designed to address contractual concerns such as administrator liability and due process which have impacted strongly on both the educational administrator profession and school board decision making processes in recent years. It has also been designed to be used in part, without making use of all provisions. In essence, this resource paper is a "Market Place of Ideas" in developing an employment contract between the school board and the superintendent.

These sample employment contract provisions are intended to illustrate the items that could be included in a carefully prepared contract. **The Superintendent's Contract** is a general working guide only. Some sections must be deleted and others must be added or revised to accommodate varying state laws and local conditions and customs. Before finally agreeing on provisions, both the school board and the superintendent *should have their respective attorneys review the mutually agreed upon employment contract to assure the proper form and legality under state law.*

All superintendents have contracts with their school boards. Some contracts are written; others are oral. Some are precise, while others are general and ambiguous. It is beneficial to the educational program of the district, to the school board and the superintendent to have a well conceived, written document that describes the relationship desired by both parties, conforms with state law, and is generally acceptable to the local community. It must meet the needs of both parties.

For the school board the contract offers an opportunity to:

- communicate its expectations
- assure stability in the top leadership of the district
- express publicly the importance of the superintendency
- guarantee responsibility for maintaining quality control over its policies and programs
- establish a procedure for attaining expected standards of performance

-
- provide for regular opportunities to evaluate and refine its policies and procedures
 - identify and eliminate areas of misunderstanding (can be accomplished during development of a contract)
 - establish or enhance an image for the district

For the superintendent, the contract offers an opportunity to:

- agree upon methods for resolving future conflict
- secure sufficient time to institute his or her programs
- secure evaluative statements on a regular basis as a guide for improvement
- secure protection from arbitrary or capricious actions by the board
- be assured of personal compensation for a stipulated period of time
- be assured of an orderly method for resolving differences
- be recognized as the administrative leader of the district's schools
- establish the nature and scope of the board's expectations
- set forth his/her expectations for the board
- secure continuity of position or orderly nonrenewal procedures

The contract is a reflection of how the board feels about the worth of the superintendent. Superintendents should recognize that the contract, along with district policies adopted by the school board, represents a declaration of community expectations for the chief executive officer of the school system.

It is highly desirable for the superintendent of schools to retain personal legal counsel when entering into a contract. While the attorney for the school board should review the contract, board counsel should not be expected, nor asked, to represent both contractual parties.

Sample Contract

The sample contract included in this publication is the product of extensive deliberations by the AASA Committee for the Advancement of School Administration (CASA) during 1976 and 1977. The document reflects the opinions of numerous administrators in the field who have reacted to earlier drafts. Improvements also have been offered by the Joint AASA/NSBA Committee during extensive deliberations from 1977 through 1979. After a thorough review and discussion of the document it is the belief of the Committee that the provisions reasonably provide for the needs of both school administrators and local school boards.

The Joint AASA/NSBA Committee believes that the employment contract between a school board and superintendent is a legitimate leadership issue for NSBA and AASA to address on a national scale. The compilation of contractual provisions, when filtered through state law, customs and practices, and considered within the bounds of discretionary authority held by local school boards, should answer the needs of both school boards (which set educational policy at the local level) and superintendents (who are employed to implement that policy). The overall impact of a sound superintendent's contract should be an enhanced working relationship between the school board and superintendent. Ultimately those who will benefit most are the learners in our public schools. A sound superintendent's employment contract strengthens local lay control and accountability for the public schools.

THE SCHOOL SUPERINTENDENT'S EMPLOYMENT CONTRACT

In most states, the employment contract is the only tangible employment security protection a school superintendent enjoys. Generally, the superintendent does not have tenure in that position unless specifically provided by statute or other law. And even where there is a statute or other law conferring a form of tenure on a superintendent, the employment security afforded is fairly general and guarantees only a rudimentary "due process" type of hearing. Often, tenure provisions protect the superintendent only as a teacher following demotion from the administrator position.

For school boards, a carefully developed contract between the board and its chief administrative officer also has many advantages. In this age of increased emphasis on administrator accountability, an employment contract enables the board to set exactly the terms and conditions of employment and spell out the specific responsibilities it wants to invest in its chief administrative officer.

In essence, the superintendent's contract represents the basic policy established by the board for the performance of the superintendent as well as the basic goals it wants the executive to achieve in the line of duty. A well-defined contract offers the board the security of knowing

**Employment
Contract
Expressed or
Implied**

exactly what it can expect to receive for the compensation and other benefits it provides. The board serves as the representative of the people for governing the local public schools in every community in America. A carefully drafted superintendent's employment contract will enhance the basic goal shared by the school board and superintendent of preserving local lay control and assuring accountability for public elementary and secondary education in our nation.

Every superintendent has an employment contract, whether expressed or implied. Some employment contracts are formal, precise, written and signed by both parties. Others are a hodge-podge of oral promises woven through a maze of school board policies and practices. But, the very fact that a superintendent is working and being compensated by a school district indicates the existence of some form of contractual employment relationship between the school district and the superintendent.

Since every superintendent has an employment contract of one sort or another, the real issue is:

What is the best kind of employment contract that a school board and superintendent should have?

A superintendent's employment contract should protect the interests of the public in maintaining a sound educational system and provide equity for the superintendent. A clear understanding between the school board and the superintendent on the nature and scope of their relationship promotes good communication and establishes a firm basis for the development of

**State-Local Law,
Custom Affect
Contract**

that relationship. The superintendent's employment contract, therefore, contributes significantly to sound governance and administration of a school district. Fairness for the superintendent, whose judgment and leadership are subject to constant and close scrutiny, is a rudimentary part of good personnel practice in any school district.

While drafting a "model" superintendent's employment contract that will fit perfectly all situations in the United States is impossible, there are certain common elements that should be considered in contract preparation. These elements, with appropriate amendments to assure responsiveness to local factors, could become a part of a "model" contract for the local community. The contractual provisions included as an Appendix in this publication were prepared with the understanding that unique and dynamic circumstances exist in each local community and state. Those circumstances must be taken into account when writing a superintendent's employment contract. To convert these provisions into a "model" contract could require extensive, little, or no amendment, depending upon local and state customs and practices.

As an aid in determining amendments that local and state conditions might require, the primary elements of a superintendent's employment contract have been isolated and are discussed in this publication. The contractual provisions that are included in the Appendix illustrate the way elements could be combined in a practical way to form an actual employment contract between a school superintendent and the school board.

Finally, the employment contract between the superintendent and the school board is a prime instrument of communication about the expectations of both parties. As such, the superintendent should brief new school board members on the contract as they take office and actually show them a copy if they request to see one. An atmosphere of complete candor is essential to a healthy relationship between the school board and superintendent.

ELEMENTS OF A SUPERINTENDENT'S EMPLOYMENT CONTRACT

Preamble

The preamble is the introductory section of the employment contract. It usually is characterized by a series of "whereas" clauses generally explaining the contract's purposes. It should articulate the reasons why an employment contract for the superintendent benefits the public school program. The preamble should also indicate why a contract is a reasonable and necessary protection for the superintendent and the school board. It is recommended that legal counsel be involved in the drafting of the employment contract.

(1)* Term

The term section sets forth the period of time that the employment contract is in effect. The employment contract also should include a provision for extensions of term. The original term should be for as long as possible *consistent with state law*. Four years is not uncommon. It should be recognized by both the superintendent and the board that it takes some time for a new chief school officer to establish programs, procedures, and style of management in a school district. Ideally, the accountability of the new superinten-

**The numbers in parentheses refer to corresponding clauses in the sample contract.*

dent should rest on those programs and operations over which he or she has some control. Time is also necessary for the development of a smooth working relationship between a superintendent and school board. This is particularly true in highly politicized and single issue oriented working environments. In granting a multi-year contract the board is protected through its right to terminate the contract for just cause.

(13)

Each year, the term of the contract may be extended by one year, if state law permits. An extension enables the superintendent to have a maximum number of years running on the contract. Yearly extension of the contract on a "roll over" basis is an issue that is within the school board's discretion, if not prohibited by state law. In discussing the issue, school boards and superintendents should review state and local customs and practices, as well as current unique problems in the community. If the superintendent determines that the school board will not renew his contract, the executive has adequate time either to conform to the demands of the school board or to begin seeking employment elsewhere. It is necessary for extensions to be made through written certification or amendment separate and apart from the original contract. Since school boards must act in public this approach allows the school board to take action on the amendment certification without the necessity of renegotiating every other element of the employment contract. (*See Appendix B for "Sample Contract Amendment Certification."*)

**(2)
Superintendent's
Professional
Certification and
Responsibilities**

Generally, the statement of professional responsibilities should be as brief as possible. Extensive generalized duty statements often cause problems when a contract is thrown into litigation. Similarly, the statement of professional responsibilities should contain as few adjectives as possible. Rather, it should specifically describe the superintendent's function and identify him or her as the chief executive officer of the board and the chief administrative officer of the district. It also should grant the superintendent authority to organize, renegotiate and arrange the administrative and supervisory staff. The school laws of the state should be incorporated into the contractual statement of responsibilities. And a section should be included that articulates the degree to which the superintendent might consult, lecture and write.

There is a legal question in some states about whether the superintendent has the right to serve as an *ex officio* member of board committees. This question should be checked against state statute before inclusion in the contract.

(4) Compensation

The annual salary of the superintendent should be specified in writing as well as in figures. It should be payable in twelve equal monthly installments, either the first or the last day of the month, or in accordance with the practices of the district, at the option of the superintendent. The superintendent who comes into the job from a district that pays on the first of the month will want to continue that practice in his or her new job in order to avoid a 13-month salary year. The board should be given the right to adjust the superintendent's compensation upward. That adjustment may or may not be in connection with extending the

term of the contract (covered in "TERM" section, page 11).

(5) Vacation and Other Benefits

The superintendent should be entitled to all fringe benefits normally received by any other school district administrator. Those benefits include medical, retirement, insurance, and vacation. In addition, the superintendent, because of the uniqueness of the position, may receive special fringe benefits not available to other school administrators including:

Deferred Income Plans

A deferred income plan sometimes is used to supplement the local retirement program. This approach is especially appropriate when a senior superintendent is employed from some other jurisdiction and starts on the district retirement plan at a relatively late age. These programs are usually covered through tax-sheltered annuities and have as an integral part a combination life insurance plan. A superintendent should seek competent estate planning advice before entering into any deferred income plan agreement.

13(c) Disability Insurance

~ Clause 13(c) of the model contract (Termination of Employment Contract) suggests disability of the superintendent as one cause for termination. Disability insurance, purchased by the district, is suggested as one way to lessen the impact should a disability occur. Providing this coverage is to the the advantage of both the superintendent and the district. This is particularly true in cases where the superintendent may not have accumulated the necessary service in a particular state to be eligible for teacher retirement benefits. Even when the superintendent is vested in the state system, supplementary disability insurance should be maintained at a level that will assure benefits equal to at least fifty (50%) percent of the contractual salary.

Association Dues

A specific provision for payment of national and state association dues benefits both the district and superintendent. Dues payment makes available to the superintendent numerous professional services. It also facilitates contacts and exchange of information with other administrators on both a state and national basis. *In some states the payment of professional association dues by the district is not permitted.* The applicable state law should be checked before specifically requesting this clause in the contract. Any provision for payment by the district of professional association dues should specifically name the associations and the school board should be advised of the budgetary impact of these dues. Finally, a school board should carefully review whether or not it should authorize district payment of dues to an association that advocates its members take an adversary stance in collective bargaining.

Life Insurance

A contract provision including life insurance might take a number of forms, including:

- **TERM INSURANCE.** Provides insurance only, with no accumulation of cash value.
- **PAID-UP LIFE INSURANCE.** A one premium payment which provides insurance coverage at face value of the policy. This insurance also has a cash value which can be borrowed against or cashed in. This insurance would become the property of the superintendent whether or not he or she remains with the district.
- **WHOLE LIFE INSURANCE.** Consists of payments to the insurer in excess of the insurance cost. There is an accumulating cash value which can be borrowed against or cashed in. However, payments would be made by the district usually only during the term of employment.

Other forms of insurance such as *20 Pay Life* and *10 or 20 Year Endowments* have also been utilized as special fringe benefits.

Another option might be explored with the district, particularly by those superintendents considering retirement at the end of the contract term. That option would allow voluntary payment of premiums by the superintendent, or by the district, which would permit the retention of group insurance benefits after retirement.

**Sabbatical or Study
Leave of a Special
Nature**

For example, a study leave of 30-60 days every few years to visit operations in other school districts can be very beneficial to the home district.

See Appendix C for a list of other possible fringe benefits.

(6) Expenses

There are two types: *direct*, an amount specifically set forth in the employment contract, and *indirect*, usually not mentioned in the employment contract and consisting of an "additive" included within the superintendent's salary. In calculating an "indirect" expense account, care must be taken to compute the net, after-taxes amount. That type of care will assure the school board's intent that a definite amount from the superintendent's salary be available for job-related expenses that otherwise might not be reimbursable. Pursuant to IRS Regulation SI.162-17(c), the superintendent must include as a part of income statements any amount received in an indirect expense allowance if it cannot be justified that those funds have been spent on valid business expenses.

**(7) Provision for
Automobile or an
Automobile
Allowance**

If an automobile is provided, insurance for the automobile as well as a district gasoline credit card should be the responsibility of the district. The district may provide an automobile through lease or outright purchase. In some states, leasing is a better approach because regular license plates may be used and do not identify the car as an official automobile. In other states regular license plates are available under a security arrangement for the protection of the life of the superintendent. The employment contract should specifically state that the district shall hold the school administrator and his estate harmless from any liability arising from his use of the car in the course of his or her employment. It is a good practice not to include this section under "COMPENSATION" because it could constitute an admission under changing federal or state income tax laws. Of course, for income tax applications of any aspect of this employment contract, a superintendent should consult a personal tax adviser. One obvious way to avoid tax consequences is to specifically limit the use of the automobile to business purposes.

**(8) Professional
Liability**

Indemnification of the superintendent against claims arising from performance of duty should be covered through a specific clause in the contract and/or a board of education policy. The correct way of addressing this issue is dependent upon state law. In no case may the school board consent to a liability coverage that is broader than permitted by state law. Otherwise, the superintendent would have expectations greater than the school board could deliver. The text in the Appendix of this publication can also serve as a possible policy to be enacted by the board, if state law permits. This clause is particularly

important in light of the increasing number of court actions against administrators attempting to implement school board policy and the resultant high costs of such liability coverage.

(9) Medical Examination and Personal Protection

Medical Examination

It may be advisable to provide for a method of selection of the medical examiner, i.e., the superintendent's choice, the district's choice, or by mutual agreement. Some state laws also require that the medical examination be conducted by a physician, licensed to practice medicine in all its branches. Providing the board with a finding of continued physical fitness is suggested in lieu of providing the entire medical report.

Personal Protection

Inclusion of this clause should be accompanied by recognition by the regular policy authority of specific circumstances that might require such protection and when this provision would go into effect.

(10) Goals and Objectives

The cooperative development of goals and objectives by the superintendent and board is strongly recommended, particularly to provide some basis against which the performance of the superintendent might be judged. Educational management literature has, in many instances, suggested a process so complete that it is unrealistic for many smaller districts. This clause, therefore, should be viewed in relationship to the superintendent's situation and not in the context of any rigid or specific management system.

(11) Evaluation

As in the development of goals and objectives, the format for evaluation should be realistic in terms of both superintendent and board capability. Some dimensions which might be included in an evaluation format include: board-superintendent relations, community relations, staff and personnel relations, educational program, business and financial matters, and professional and leadership development. The actual rating system can range from checklists with brief comments to a completely narrative form. However, it should be stipulated that the evaluation be in writing.

In drafting language for this section of the contract remember that "Sunshine Laws" have caused extreme variations from one state to another. For example, in Illinois the courts have interpreted the Public Meetings Act as permitting discussions about continuation of employment. However, in other states the "Sunshine Law" has been written to include the evaluation of supervisory employees in public, e.g., New Hampshire. The clause contained in the sample contract would be applicable-only in those states permitting closed evaluations.

Whether or not district goals and objectives mutually established by the board and superintendent are used as a basis for evaluation, the process should deal primarily with performance criteria agreed upon prior to evaluation by both parties. It is also strongly urged that language be built into the contract which indicates that the evaluation process represents a dialogue between the superintendent and board and an examination of the performance of both parties to the contractual agreement.

A meeting to discuss the evaluation with the board is strongly suggested. At the very least, there should be some provision that any evaluation which could lead to a recommendation to terminate would require a meeting between the superintendent and school board before general board action to terminate the contract is undertaken. In all cases, but particularly those where the evaluation is adverse to the superintendent, a period of time should be provided for superintendent response. Thoughtful response to any evaluation cannot be expected to occur immediately after the evaluation data is received.

**(12), (1) Renewal
of Employment
Contract**

If the employment contract is not renewed on a yearly basis, as described in the "TERM" section of this publication, a provision may be included that obligates the school board to provide written notice to the superintendent *6-12 months* in advance of termination that it is the intention of the school board not to renew the contract. Under this approach, failure to give notice by the agreed upon date should result in the automatic renewal of the contract for at least one year. In the event of nonrenewal, the right to a due process hearing should also be included.

The stipulation that the superintendent remind the board in writing of this clause is included in the spirit of full disclosure and as protection against the possible adverse impact on board-superintendent relations which might result if this clause were inadvertently overlooked. If, in exercising its discretion, the school board decides *not* to approve the automatic renewal feature, the board should provide for adequate notice of nonrenewal to permit the superintendent sufficient time to look for other employment. In any event, there should be an

**(13D) Employment
Contract
Termination**

understanding that any action taken on renewal or nonrenewal is the result of a conscious decision by both the school board and the superintendent and never because of default.

The right to a due process hearing before the school board should be included as a provision of the employment contract in case the superintendent disputes the termination. A due process clause has become particularly important in light of the Barthuli case. In "Barthuli," a California court found that school administrators had "no property right" in dismissal from a multi-year contract where a proper due process clause did not exist. This due process right should consist of at least:

- written notice of the reasons the contract is being terminated
- the right to appear before the school board in closed executive session or public hearing, at the option of the superintendent
- the right to be represented at the hearing by an individual of the administrator's choice
- a right to a written decision describing the results of the hearing

A provision also should be included indicating that neither the school board nor the superintendent waives any right either party might have affecting the contract under state or federal law.

When the superintendent does not dispute the termination, a provision for severance pay is appropriate, if permitted by state law. There is some question, however, whether a provision for liquidated damages upon mutual agreement to terminate should be specifically provided in a contract or is better left to negotiation between

attorneys for the parties. The disadvantage in establishing a predetermined dollar amount is that the superintendent might not agree to termination if unhappy with the liquidated dollar figure contained in the contract. It should also be recognized that claims for liquidated damages must bear some relationship to the actual loss suffered by the superintendent because of termination. A predetermined dollar amount might not accurately reflect this loss. The NSBA members of the Joint AASA/NSBA committee strongly believe that severance pay, where permitted by state law, should never exceed the *lesser* of one year's salary or the salary due for the remainder of the contract.

(14) Savings Clause

A savings clause is desirable to assure that any challenge to the legality of a provision of the contract would not invalidate the entire contract. It also provides a method of dealing with a situation in which a provision of the contract is declared illegal. On the other hand, a savings clause binds the superintendent to the employment relationship, even if the deleted provision significantly modifies the contract. Two of the more common situations that might involve the savings clause are:

- When the superintendent's salary is increased in a manner not in keeping with statutory requirements.
- When a superintendent is given greater powers than permitted by law.

Form of the Employment Contract

The contract should be typed on regular paper and in a clear and reasonable type style. The term "Governing Board" used in the Appendix may be changed to "Board of Education,"

"School Committee," "School Board," etc., to conform to local custom and practice.

Approval of the Employment Contract

The employment contract should be approved in a public meeting of the school board and made a part of the public record of that meeting. It should be signed by the president of the board in the name and on behalf of the school board. All members of the board should not be required to sign the contract because this practice does not increase its validity and can cause needless confrontation with a board member who is not supportive of the superintendent. Attorneys for the superintendent and the board should also review the employment contract and advise their clients on all its aspects.

The employment contract should be as brief as possible and written in plain language. In the final analysis, a superintendent's employment contract is the product of a very sensitive deliberation by the school board and the superintendent. The result of this deliberation is tempered by local custom and practice and sets the tone for the developing relationship between the superintendent and the school board.

A compilation of employment contractual provisions and amendment form are included as an Appendix. The application of state law and local customs and practices to these forms by appropriate amendment, together with review and approval by attorneys for both board and superintendent should result in a "model" employment contract and ultimately benefit the public school program in the local community.

**Calendar of
Mandatory
Actions in
Respect to the
Contract**

The employment contract, when fully agreed upon, places certain time deadlines and requirements on both the superintendent and board. The superintendent should assume the responsibility for providing the board with a calendar of mandatory actions, redrafted each year the contract is in effect, specifying those dates and deadlines which the contract requires. (*See Appendix D.*)

Finally, it should be noted that not all issues of potential misunderstanding between the school board and superintendent can be settled in an employment contract. Written school board policies are indispensable in filling any gaps. For example, consider the handling of complaints lodged by parents or others against administrative action taken in the district. How should these complaints be handled? How should they be reported and what kind of response should they receive? Should persons who are the subjects of the complaint be given an opportunity to respond? These are just a few questions which increase the need for a written school board policy that both the school board and superintendent can agree upon for handling complaints against the superintendent and his or her staff. Common sense indicates that these questions could have an enormous impact on the employment relationship of the school board and superintendent.

**Supplemental
Resources**

Good sources of information about prevailing compensation and fringe benefit practices for superintendents of various states are the *National Survey of Fringe Benefits for Professional Personnel in Public Schools* and the *National Survey of Salaries and Wages in Public Schools* which

are conducted on a biannual basis by the Educational Research Service, Incorporated, 1800 North Kent Street, Arlington, Virginia 22209.

In addition to these studies which are national in scope, Educational Research Service conducts specific state compensation studies under contract with State Associations of School Administrators. To find out whether or not one of these studies has been done in your state, contact ERS or your state association.

Appendix A

SAMPLE CONTRACT

(A Compilation of Provisions for a)
SAMPLE EMPLOYMENT CONTRACT*
BETWEEN

AND THE
GOVERNING BOARD OF THE
SCHOOL DISTRICT
OF _____

This Employment Contract, made and entered into this _____ day of _____, 19____, by and between the Governing Board of the _____ School District of _____, hereinafter referred to as **DISTRICT**, and _____, hereinafter referred to as **SUPERINTENDENT**.

WHEREAS, **DISTRICT** desires to provide **SUPERINTENDENT** with a written employment contract in order to enhance administrative stability and continuity within the schools which **DISTRICT** believes generally improves the quality of its overall educational program; and, **WHEREAS**, **DISTRICT** and **SUPERINTENDENT** believe that a written employment contract is necessary to describe specifically their relationship and to serve as the basis of effective communication between them as they fulfill their governance and administrative functions in the operation of the education program of the schools; (see pages 8 and 9)

NOW, THEREFORE, **DISTRICT** and **SUPERINTENDENT**, for the consideration herein specified, agree as follows:

1. TERM.

DISTRICT, in consideration of the promises, herein contained, of **SUPERINTENDENT**, hereby employs, and **SUPERINTENDENT**

hereby accepts employment as Superintendent of Schools for a term commencing _____, 19____, and ending _____, 19____. (see page 11)

DISTRICT may by specific action and with the consent of **SUPERINTENDENT** extend the termination date of the existing contract to the full extent permitted by state law. (see page 12)

2. PROFESSIONAL CERTIFICATION AND RESPONSIBILITIES OF SUPERINTENDENT

A. CERTIFICATION. **SUPERINTENDENT** shall hold a valid certificate issued by the _____ (list state) _____. (see page 13)

**This compilation of contractual provisions is shown in contract format for ease of review. The citations in parentheses at the end of each clause refer to explanatory background discussions in the fore part of this publication.*

B. DUTIES. **SUPERINTENDENT** shall have charge of the administration of the schools under the direction of the Board. He (she) shall be the chief executive officer of the Board; shall direct and assign teachers and other employees of the schools under his (her) supervision; shall organize, reorganize and arrange the administrative and supervisory staff, including instruction and business affairs, as best serves the **DISTRICT** subject to the approval of the Board; shall select all personnel subject to the approval of the Board; shall from time to time suggest regulations, rules and procedures deemed necessary for the well ordering of the school district, and in general perform all duties incident to the office of the Superintendent and such other duties as may be prescribed by the Board from time to time. The Board, individually and collectively, shall promptly refer all criticisms, complaints, and suggestions called to its attention to the Superintendent for study and recommendation. The Superintendent shall have the right to attend all Board meetings and all Board and citizen committee meetings, serve as an ex-officio member of all School Board committees and provide administrative recommendations on each item of business

considered by each of these groups. (see page 13)

C. OUTSIDE ACTIVITIES. SUPERINTENDENT shall devote his (her) time, attention and energy to the business of the school district. However, he (she) may serve as a consultant to other districts or educational agencies, lecture, engage in writing activities and speaking engagements, and engage in other activities which are of a short-term duration at his (her) discretion. Such activities which require the superintendent to be absent from the school district for more than _____ (to be agreed upon) full working days shall be reported to the Board for approval. SUPERINTENDENT may at his (her) option, and with the approval of the Board of Education, continue to draw a salary while engaged in the outside activity as described above. In such cases honoraria paid SUPERINTENDENT in connection with these activities shall be transferred to the DISTRICT. If SUPERINTENDENT chooses to use vacation leave to perform outside activities, he (she) shall retain any honoraria paid. In no case will DISTRICT be responsible for any expenses attendant to the performance of such outside activities. (see page 13)

3. PROFESSIONAL GROWTH OF SUPERINTENDENT.

DISTRICT encourages the continuing professional growth of SUPERINTENDENT through his (her) participation, as he (she) might decide in light of his (her) responsibilities as SUPERINTENDENT, in:

- a. the operations, programs and other activities conducted or sponsored by local, state and national school administrator and school board associations;
- b. seminars and courses offered by public or private educational institutions; and
- c. informational meetings with other persons whose particular skills or backgrounds would serve to improve the capacity of SUPERINTENDENT to perform his (her) professional responsibilities for DISTRICT.

In its encouragement, DISTRICT shall permit a reasonable amount of release time for SUPERINTENDENT as he (she) deems appro-

prate, to attend to such matters and pay for the necessary fees for travel and subsistence expenses, as approved by the District in the annual budget. (see page 16)

4. COMPENSATION.

Salary. **DISTRICT** shall pay **SUPERINTENDENT** at an annual salary rate of _____
(spell out) (\$ use figures)

DOLLARS. This annual salary rate shall be paid to **SUPERINTENDENT** in installments of one-twelfth of the annual salary rate on the first day of each month for his (her) services rendered during the preceding month or in accordance with the schedule of salary payments in effect for other certified employees, at the option of **SUPERINTENDENT**. (see page 13)

DISTRICT and **SUPERINTENDENT** may mutually agree to adjust the salary of **SUPERINTENDENT** during the term of this contract, but in no event shall he (she) be paid less than the salary he (she) is presently receiving. Any adjustment in salary made during the life of this contract shall be in the form of an amendment and become part of this contract, but it shall not be deemed that **DISTRICT** and **SUPERINTENDENT** have entered into a new contract nor that the termination date of the existing contract has been extended. (see page 13)

5. VACATION AND OTHER BENEFITS

A. SUPERINTENDENT shall be entitled to all the benefits applicable to twelve (12) month administrative employees as are incident to their employment relationship with **DISTRICT**, including, but not limited to, vacation and illness benefits and leaves, any other forms of insurance protection, retirement program, choice of tax-sheltered annuities, and other administrative employee benefits. (see page 14)

B. District shall purchase disability policy naming the superintendent that will provide an income to the superintendent equal to at least fifty (50%) percent of the contractual salary. (see page 14)

C. District shall pay 100 percent of Superintendent's membership charges to the American Association of School Administrators, the _____ (State) Association of School Administrators and these other professional groups, (specific names of groups to be included in this contract) membership in which the superintendent feels it is necessary to maintain and improve his (her) professional skills, as permitted by State law and as approved by DISTRICT in the annual budget. (see page 15)

6. EXPENSES.

DISTRICT shall pay or reimburse SUPERINTENDENT for reasonable expenses approved by DISTRICT and incurred by SUPERINTENDENT in the continuing performance of his (her) duties under this Employment Agreement and in moving him (her) and his (her) family from _____ to the location of DISTRICT, as permitted by State law and as approved by DISTRICT in the annual budget. (see page 16)

7. AUTOMOBILE ENTITLEMENT.

In light of the unique nature of the professional duties of the Superintendent of Schools, DISTRICT shall provide SUPERINTENDENT with an automobile for his (her) business use. The automobile shall be fully maintained by DISTRICT, including, but not limited to, keeping the automobile in safe, usable condition, and providing for all expenses incidental to automobile usage. (see page 17)

8. PROFESSIONAL LIABILITY. (see page 17)

A. DISTRICT agrees that it shall defend, hold harmless, and indemnify SUPERINTENDENT from any and all demands, claims, suits, actions and legal proceedings brought against SUPERINTENDENT in his (her) individual capacity, or in his (her) official capacity as agent and employee of the DISTRICT, provided the incident arose while SUPERINTENDENT was acting within the scope of his (her) employment and excluding criminal litigation and as such liability coverage is within the

authority of the school board to provide under State law. Except that, in no case, will individual board members be considered personally liable for indemnifying **SUPERINTENDENT** against such demands, claims, suits, actions and legal proceedings. (see page 17)

B. If in the good faith opinion of **SUPERINTENDENT**, conflict exists as regards the defense to such claim between the legal position of **SUPERINTENDENT** and the legal position of **DISTRICT**, the **SUPERINTENDENT** may engage counsel in which event **DISTRICT** shall indemnify the **SUPERINTENDENT** for the costs of legal defense as permitted by State law. (see page 17)

C. **DISTRICT** shall not, however, be required to pay any costs of any legal proceedings in the event **DISTRICT** and **SUPERINTENDENT** have adverse interests in such litigation. (see page 17)

9. MEDICAL EXAMINATION AND PERSONAL PROTECTION.

In light of the unique nature of the professional duties of Superintendent of Schools, **DISTRICT** shall, at its expense, provide to **SUPERINTENDENT**:

A. A complete medical examination of **SUPERINTENDENT** not less than once every two years and no more often than once each year. Any report of the medical examination shall be given directly and exclusively by the examining physician to **SUPERINTENDENT**. The District shall be advised in writing by the physician of the continued physical fitness of the Superintendent to perform his (her) duties and such report shall be confidential. (see page 18)

B. In the event the life or safety of **SUPERINTENDENT** or his (her) family is threatened or otherwise appears in danger because of the performance of **SUPERINTENDENT'S** official duties, **DISTRICT** shall pay reasonable costs incident to the protection of the **SUPERINTENDENT** and his (her) family. The superintendent can request district to pay all or part of the charges. Protection, if required, will be sought first from the regular police authorities. (see page 18)

10. GOALS AND OBJECTIVES.

On or prior to the execution of this contract, the parties shall meet to establish **DISTRICT** goals and objectives for the ensuing school year. Said goals and objectives shall be reduced to writing and be among the criteria by which **SUPERINTENDENT** is evaluated as hereafter provided. On or prior to _____ (insert date) of each succeeding school year, the parties will meet to establish **DISTRICT** goals and objectives for the next succeeding school year, in the same manner and with the same effect as heretofore described. (see page 18)

11. EVALUATION.

The Board shall evaluate and assess in writing the performance of **SUPERINTENDENT** at least once a year during the term of this contract. This evaluation and assessment shall be reasonably related to the position description of **SUPERINTENDENT** and the goals and objectives of the **DISTRICT** for the year in question.

SUPERINTENDENT shall submit^c to the Board a recommended format for this written evaluation and assessment of his (her) performance within ninety (90) days of the effective date of this contract. The Board shall meet and discuss the evaluation format with the **SUPERINTENDENT**, attempting in good faith to agree on the development and adoption of a mutually agreeable evaluation format. In any event, the Board shall adopt an evaluation format within 150 days of the effective date of this contract and shall evaluate the **SUPERINTENDENT** pursuant thereto within _____

(depends on notification date arrived at in Clause 13 below) prior to the expiration of the first year of the term of this contract. (see page 19)

At least once each fiscal year, **DISTRICT** and **SUPERINTENDENT** shall meet in closed executive session (unless specifically prohibited by state law) for the purpose of mutual evaluation of the performance of **DISTRICT** and **SUPERINTENDENT**. In the event that the Board determines that the performance of the Superintendent is unsatisfactory in any respect, it shall describe in writing, in reasonable detail, specific instances of unsatisfactory performance. The evaluation shall include recommendations as to areas of improve-

ment in all instances where the Board deems performance to be unsatisfactory. A copy of the written evaluation shall be delivered to the SUPERINTENDENT. The SUPERINTENDENT shall have the right to make a written reaction or response to the evaluation. This response shall become a permanent attachment to the SUPERINTENDENT'S personnel file. Within thirty days of the delivery of the written evaluation to the SUPERINTENDENT, the Board shall meet with the SUPERINTENDENT to discuss the evaluation.* (see page 20)

*See also *"Evaluating the Superintendent"* published by AASA.

12. RENEWAL OF EMPLOYMENT CONTRACT.

If DISTRICT does not notify SUPERINTENDENT in writing before _____ (insert date) that this Employment Contract will not be renewed, it shall be deemed that DISTRICT has renewed this Employment Contract for one (1) year extending from the termination date set forth in paragraph 1, above. SUPERINTENDENT shall, by certified mail to each member, remind the Board of the existence of this automatic renewal clause. Such notice shall be sent two months prior to the Board meeting where renewal or nonrenewal is to be considered. Failure to mail required notice shall invalidate the automatic renewal clause. (See paragraph 2, page 44, for alternative approach that removes "automatic" feature of contract renewal for those School Boards not designing such factors). (see page 20)

13. TERMINATION OF EMPLOYMENT CONTRACT.

This employment contract may be terminated by:

- A. Mutual agreement of the parties.
- B. Retirement of SUPERINTENDENT.
- C. Disability of SUPERINTENDENT.

In the event of disability by illness or incapacity, after SUPERINTENDENT'S sick leave has been exhausted, the compensation shall be reinstated after SUPERINTENDENT has returned to employment and undertaken the full discharge of his (her) duties. DISTRICT may terminate this contract by writ-

ten notice to **SUPERINTENDENT** at any time after **SUPERINTENDENT** has exhausted any accumulated sick leave and such other leave as may be available and has been absent from his (her) employment for whatever cause for an additional continuous period of _____. All obligations of **DISTRICT** shall cease upon such termination. (see page 21)

If a question exists concerning the capacity of **SUPERINTENDENT** to return to his (her) duties **DISTRICT** may require **SUPERINTENDENT** to submit to a medical examination, to be performed by a doctor licensed to practice medicine. **DISTRICT** and **SUPERINTENDENT** shall mutually agree upon the physician who shall conduct the examination. The examination shall be done at the expense of **DISTRICT**. The physician shall limit his (her) report to the issue of whether **SUPERINTENDENT** has a continuing disability which prohibits him (her) from performing his (her) duties. (see page 18)

D. Discharge for cause.

Discharge for cause shall constitute conduct which is seriously prejudicial to **DISTRICT**, including but not limited to, neglect of duty, or breach of contract. Notice of discharge for cause shall be given in writing and **SUPERINTENDENT** shall be entitled to appear before the Board to discuss such causes. If **SUPERINTENDENT** chooses to be accompanied by legal counsel at such meeting, he (she) shall bear any costs therein involved. Such meeting shall be conducted in closed, executive session unless specifically prohibited by State law. **SUPERINTENDENT** shall be provided a written decision describing the results of the meeting. (see page 21)

In the event that the Board offers to terminate the contract by paying the amount specified in Clause 13(E) below, the requirement of the hearing before the Board shall be waived by the **SUPERINTENDENT**. (see page 21)

E. Unilateral Termination by Board of Education.

The Board may, at its option, and by a minimum of 90 days notice to Superintendent, unilaterally terminate this contract. In the event of such termination the **DISTRICT** shall pay to

SUPERINTENDENT, as severance pay, all of the aggregate salary he (she) would have earned under this employment contract from the actual date of termination to the termination date set forth in this employment contract or _____ (spell out)
_____ (\$ use figures) Dollars. (see page 22)

F. Termination with Superintendent's Concurrence.

DISTRICT may propose to terminate this employment contract upon 90 days written notice to **SUPERINTENDENT**. If the **SUPERINTENDENT** concurs in writing with this decision, **DISTRICT** shall pay to the **SUPERINTENDENT**, as severance pay, all aggregate salary he (she) would have earned under this employment contract from the actual date of termination to the termination date set forth in this employment contract or _____ (spell out) _____ (\$ use figures) Dollars. In

the event the **SUPERINTENDENT** accepts the settlement specified above, the requirement for a hearing of the reasons for termination in closed executive session before the Board, as provided for in Clause 13(D) above shall be waived. (see page 21) (The words "not to exceed one full year's compensation" may be added where permitted by state law, at discretion of school board.)

G. Death of SUPERINTENDENT.

14. SAVINGS CLAUSE.

If, during the term of this contract it is found that a specific clause of the contract is illegal in federal or state law, the remainder of the contract not affected by such a ruling, shall remain in force. (see page 22)

IN WITNESS WHEREOF, **DISTRICT** has caused this Employment Contract to be approved in his (her) behalf by a duly authorized officer and **SUPERINTENDENT** has approved this Employment Contract effective on the day and year specified in paragraph 1, above. (see page 22)

SUPERINTENDENT

GOVERNING BOARD OF THE
SCHOOL DISTRICT

OF

by:

President (or other officer, as
appropriate), Governing Board

Witness

Approval of form and legality by DISTRICT'S legal counsel. (see
page 23)

This Employment Contract was approved by vote of the School
Board at a public meeting duly held on _____
and has been made a part of the minutes for that meeting. (see
page 23)

SAMPLE CONTRACT AMENDMENT CERTIFICATION

SAMPLE EMPLOYMENT CONTRACT SAMPLE AMENDMENT CERTIFICATION

This is to certify that the Employment Contract entered into by and between the Governing Board of the _____ School District of _____ on _____, 19____, effective _____, 19____ for a _____ year term, was amended by action of the Board of Education at its public meeting held on _____, 19____ in that:

1. The annual salary rate of _____ is increased from _____ (spell out old amount) (\$ use figures) _____ DOLLARS to _____ (spell out new amount) (\$ use figures) _____ DOLLARS, payable in monthly installments of one-twelfth (1/12th) of such sum, commencing _____, 19____ and continuing thereafter during the term of the Employment Contract, as extended herein, unless, in accordance with authority contained in the Employment Contract, the annual salary is later increased; and,

2. The term of the Employment Contract is extended for a _____ year period commencing _____, 19____ and ending on _____, 19____.

All other terms and conditions of the Employment Contract remain unchanged and continue in full force and effect.

GOVERNING BOARD OF THE
SCHOOL DISTRICT

of _____

By _____

Witness

President (or other officer, as
appropriate), Governing Board

I, _____, do
hereby consent to the above-described action taken by the Govern-
ing Board of _____ School District on
my Employment Contract and agree to the amendment as set forth
above.

Superintendent of Schools

- Approval as to legality and form by DISTRICT'S Legal Counsel.
- This Employment Contract Amendment Certification was
approved by vote of the School Board at a public meeting duly
held on _____ and has been made a part of the
minutes for that meeting.

Appendix C

FRINGE BENEFITS

Listed below are a number of fringe benefits commonly found in business and industry. They are presented for consideration as possible requests in contract discussions between superintendents and school boards. Some of these fringes are more traditional than others and are commonly found in many superintendent contracts. Some are discussed in the text which accompanies this sample contract.

Presentation of this list is designed to broaden the spectrum of possibilities in the fringe benefit area.

School boards must ensure that they possess the authority under state law to offer their superintendents any specific "fringe benefit" mentioned herein.

Executive Perquisites

Deferred Compensation
Supplemental Retirement Plans
School Car
Parking
Executive Physical Examinations
Memberships
Special Management Education
Sabbaticals
Personal Legal Services
Personal Financial Counseling
Individual Policy — Nongroup Life Insurance
Liability Insurance
Individual Study Leave for Specified Time

Death Benefit Plans

Basic Group Life Insurance
Supplemental Group Life Insurance
Total Group Life Insurance

	Retiree Group Life Insurance Group Survivor Income Benefit Group Accidental Death and Dismemberment Business Travel Accident Insurance
Income Replacement/Maintenance	Uninsured Short Term Disability Accident and Sickness Insurance Long Term Disability Insurance Severance Plans
Medical Care	Basic Plan Major Medical Comprehensive Plans Maternity Psychiatric Care Dental Plan Optical Plan Retiree Health Care Physical Examinations Supplemental Medical Counseling Programs Health Maintenance Organizations
Pension Plans	Normal Retirement Benefits Disability Retirement Deferred Retirement Tax-Sheltered Annuity
Expense Arrangements	Profession/Trade Associations Credit Cards Business Travel Expenses Use of Personal Automobile Conferences and Conventions Moving Allowances

Note: This list draws heavily on the list of fringe benefits prepared by Hay Associates, Philadelphia, PA

CALENDAR OF MANDATORY ACTION

- Complete medical examination of superintendent not less than once every two years and no more than once each year.
- Parties must meet on or prior to execution of the contract to establish goals and objectives.
- On or prior to the *established date* of each succeeding school year, parties shall meet to establish district goals and objectives for the next succeeding school year.
- The board must evaluate and assess, in writing, the performance of the superintendent once a year during the term of the contract.
- Within 90 days of the effective date of contract, the superintendent will submit to the board a recommended format for written evaluation and assessment.
- Within 150 days of effective date of contract, the board will adopt an evaluation format and evaluate the superintendent before the *specified date* of expiration of first year of the term of agreement
- Once a year the board and superintendent will meet for mutual evaluation of the performance of the district and the superintendent.
- Within 30 days of delivery of an unsatisfactory report to the superintendent, the board and superintendent will meet to discuss the evaluation.

-
- *Establish date* by which the district must notify the superintendent of non-renewal of contract, if the school board approves "automatic" removal provision.
 - Two months prior to the board meeting at which the renewal or non-renewal of the superintendent's contract is to be considered, the superintendent must remind the board of the existence of the automatic renewal clause in the contract, if the school board approves "automatic" renewal provision.
 - A minimum of 90 days notice to the superintendent is required if the board, at its option, unilaterally terminates this contract.
 - Written notice must be given 6-12 months in advance of termination stating it is not the board's intention to renew.

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